

State Board of Equalization
OPERATIONS MEMO
For Public Release

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**SUBJECT: CHANGE IN POINT OF COLLECTION FOR TAXES ON MOTOR
VEHICLE, DIESEL, AND AIRCRAFT JET FUEL**

I. GENERAL

Sales and Use Tax: With the passage of Assembly Bill 309 (Ch. 429, Stats 2001), effective January 1, 2002, the collection point for the prepayment of sales tax on motor vehicle fuel, diesel fuel, and aircraft jet fuel moved from the first sale in the state to the point where excise tax would be imposed, i.e. removal from the "terminal rack," or on the importation/entry into this state via ground transportation, or for motor vehicle fuel (gasoline) and diesel fuel by bulk transfer when the enterer is not a licensed supplier, or on the sale to an unlicensed person. The terminal rack is defined as the mechanism for delivering fuel from a storage terminal into a railcar, trailer, truck, or other equipment suitable for ground transportation.

Excise Tax on Motor Vehicle Fuel and Diesel Fuel: With the passage of Assembly Bill 2114 (Ch. 1053, Stats 2000) effective January 1, 2002, tax on motor vehicle fuel is imposed on the removal from the terminal rack or upon entry or sale in this state rather than on the first distribution.

This change in the point of taxation for motor vehicle fuel coincides with the Diesel Fuel Tax Law and brings the imposition of tax into consistency with federal excise tax laws. The benefit derived by the Board in implementing this change will be the ability to utilize a federal fuel tracking system to gather and analyze motor fuel industry records to reduce the increasing incidence of tax evasion.

Excise Tax on Aircraft Jet Fuel: While the motor vehicle fuel tax moves to the terminal rack, the imposition of the aircraft jet fuel tax remains at the dealer level. The aircraft jet fuel tax is due when the aircraft jet fuel is (1) placed into jet aircraft fuel tanks, unless otherwise exempt, or (2) when consumed by the aircraft jet fuel dealer. Nevertheless, the prepaid sales tax is imposed on aircraft jet fuel at the terminal rack or when it enters the state as if it were diesel fuel, provided that, as long as the fuel is in the bulk transfer system, prepaid sales tax does not apply.

Due Date of Prepaid Sales Tax Return: Effective January 1, 2002, all tax returns for prepaid sales tax, motor vehicle fuel tax, aircraft jet fuel tax, and diesel fuel tax are due on the last day of the month instead of the 25th of each month. In addition, the late penalty on Prepayment of Sales Tax on Fuel Sales returns (BOE-401-DB) was reduced from 25% to 10%.

II. DEFINITIONS FOR PREPAID SALES TAX (Assembly Bill 309)

With this law change, the terms "distributor", "importer", and "producer" have been replaced with the term "supplier", and the terms "broker" and "jobber" have been replaced with the term "wholesaler". The terms "distributor", "broker", "importer", "producer", and "jobber" will no longer be used. The taxpayer responsible for first collecting and remitting the tax will be known as a **supplier**. The taxpayer buying from a supplier and selling to a retailer is a **wholesaler**.

Supplier includes the following:

1. "Blender"- any person that produces or converts blended motor vehicle fuel or blended diesel fuel outside the bulk transfer/terminal system.
2. "Enterer" - any person who is the importer of record (under federal customs law) with respect to fuel. If the importer of record is acting as an agent, the person for whom the agent is acting for is the enterer. If there is no importer of record of fuel entered into this state, the owner of the fuel at the time it is brought into this state is the enterer.
3. "Position Holder" - any person that holds the inventory position in the fuel, as reflected on the records of the terminal operator. A person holds the inventory position in the fuel when that person has a contractual agreement with the terminal operator for the use of storage facilities and terminating services at a terminal with respect to the fuel. "Position holder" includes a terminal operator that owns fuel in its terminal.
4. "Refiner"- any person that owns, operates, or otherwise controls a refinery.

Wholesaler - any person other than a supplier dealing in motor vehicle fuel, diesel fuel, or aircraft jet fuel. "Wholesaler" does not include anyone dealing in motor vehicle fuel or diesel fuel in the capacity of an operator of a service station. "Wholesaler" does not include anyone dealing in aircraft jet fuel in the capacity of an aircraft jet fuel dealer.

Terminal Operator - any person that owns, operates, or otherwise controls a terminal.

Terminal Rack – the mechanism for delivering fuel from a terminal into ground transportation such as a truck, trailer, railroad car, or other means of nonbulk transfer. The phrase "above the rack" means fuel transfers prior to removal through the terminal rack; "below the rack" refers to movement of fuel after removal from the terminal rack into ground transportation.

Bulk Transfer – means any transfer of fuel by pipeline or vessel.

Bulk Transfer/Terminal System - means any fuel distribution system consisting of refineries, pipelines, vessels and terminals. Fuel in a refinery, pipeline, vessel, or terminal is in the bulk transfer/terminal system. Fuel in the fuel tank of any engine, or in any railcar, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system.

III. REGISTRATION PROGRAM CODE ADDITIONS, CHANGES, AND DELETIONS

Effective January 1, 2002, the **Sales and Use Tax** program codes will change as follows:

Taxpayer or Program Name	Old Program Code & Account Numbers	New Program Code & Account Numbers	Reporting Basis	Due Date of Return
Prepaid Sales Tax Distributor	SG 77-000000 to 999999	No close out of existing account numbers or issuance of new account numbers from these series. Designation will become "supplier" or "wholesaler"	Monthly	Last day of next month
Prepaid Sales Tax Broker	SG 78-000001 to 019999		Monthly	Last day of next month
Prepaid Sales Tax Diesel	SG 78-020001 to 020399		Monthly	Last day of next month
Prepaid Sales Tax Suppliers and Wholesalers	-	All new suppliers and wholesalers will be 78-020405 to 999999	Monthly	Last day of next month

Effective January 1, 2002, the **Fuel Taxes Division** program codes change as follows:

Taxpayer or Program Name	Old Program Code & Account Numbers	New Program Code & Account Numbers	Reporting Basis	Due Date of Return
Petroleum Supplier	None	PS 04-06000 to 064999	Monthly	Last day of next month
Diesel Terminal Operator	DO	Closed out and re-registered as PO (1)	-	-
Diesel Fuel Supplier	DD 57-250001 to 350000	no change	Monthly	Last day of next month
Diesel Train Operator	DT	Closed out and re-registered as PT (2)	-	-
Diesel Throughputter	DP	Closed out and re-registered as DD	-	-
Petroleum Miscellaneous	None	PX 04-065000 to 069999		No return due
Petroleum Common Carrier	None	PC 05-05000 to 052999	Monthly	Last day of next month
Petroleum Industrial User	None	PM 05-053000 to 055999	-	No return due
Petroleum Terminal Operator	None	PO 05-056000 to 058999	Monthly	Last day of next month
Petroleum Train Operator	None	PT 05-059000 to 05999	Quarterly	Last day of the month following the quarter
Motor Vehicle Fuel Distributor	MD 07-000001 to 999999	Deleted Closed out	-	-
Motor Vehicle Fuel Broker	MB 08-000001 to 999999	Deleted Closed out	-	-
Out of State Purchaser	None	PE 05-06000 to 064999	-	No return due

- 1) Petroleum Terminal Operator (PO) replaces the Diesel Terminal Operator tax program. The PO will report its monthly receipts, distributions, and ending inventory of all petroleum products including gasoline, diesel, and jet fuel, and replaces the former "DO" program code related specifically to tracking diesel type fuels in terminal operations.
- (2) Petroleum Train Operator (PT) replaces the Diesel Train Operator tax program. The PT will report its purchases of all petroleum products including gasoline and diesel for use in train operations and replaces the former "DT" program code related specifically to purchases of diesel fuel.

IV. ISSUING PRE-COLLECTION (SG) ACCOUNTS

Since a supplier or wholesaler is not technically responsible to collect the prepayment of sales tax on fuel until they receive written notice from the Board, the quickest way to identify and register these accounts is to do it concurrently with the sales and use tax registration process. The district office must determine the types of fuel sales being made and how the account should be coded. When district office staff issues a sales tax permit with account characteristic codes 4 or 5 assigned (fuel wholesaler or fuel supplier), a copy of the TAR AI screen should be sent to Headquarters Account Analysis and Control Section (AACS, MIC: 29) with a mini-memo (STD-101) requesting issuance of the SG account number, confirmation of the SG start date, and requesting any prior or current returns needed. AACS will then establish the SG account and notify the taxpayer of the precollection requirement (BOE-999-L). The Fuel Taxes Division is no longer identifying fuel wholesalers or flagging them for the AACS to issue the SG permit. Therefore, AACS is dependent on receiving this information from the district.

V. APPLICATION OF SALES TAX PREPAYMENT

The sales tax prepayment requirement is imposed when motor vehicle or diesel fuel is removed from the terminal rack, imported into this state via ground transportation (or via bulk transfer if the enterer is unlicensed), or sold to a person that is not a licensed supplier. The sales tax prepayment requirement is also imposed when blended motor vehicle fuel or blended diesel fuel is first sold by the blender. The sales tax prepayment requirement is imposed when aircraft jet fuel is removed from a terminal rack or imported into this state via ground transportation. The supplier is required to collect prepaid sales tax from the purchaser of motor vehicle fuel, diesel fuel or aircraft jet fuel and provide the purchaser with an invoice which evidences the collection of the prepayment. A wholesaler is required to collect a prepayment of the retail sales tax from the person to whom fuel is sold and provide the purchaser with an invoice which evidences the collection of the prepayment. The retailer's reporting requirements have not changed.

VI. REFERRAL OF QUESTIONS

Motor vehicle fuel, diesel fuel, and aircraft jet fuel accounts administered by the Fuel Taxes Division are maintained on the Special Taxes Automated Revenue System (STARS) rather than the Integrated Revenue Information System (IRIS). Because the Sales and Use Tax Department is unable to access STARS, all registration and account maintenance activity related to fuel tax accounts will be referred to the Fuel Taxes Division at (916) 322-9669.

No floor stock sales tax return is required for inventories of fuel subject to sales tax prepayment. The sales tax liability or refund will be handled through the filing of appropriate returns. Questions regarding the pre-collection of sales tax should be referred to the Customer Service Center at (800) 400-7115.

VII. OBSOLESCENCE

This Operations Memo will become obsolete when the information contained herein is incorporated into the appropriate manuals.

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Distribution: 1-D